

ITEL

May 10, 1988

RECORDATION NO.

1 5642

FILED 1225

MAY 13 1988-11 15 AM

INTERSTATE COMMERCE COMMISSION

Istel Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000

Hon. Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 20423

Re: Schedule No. 1 dated May 5, 1988, to Master Lease No. 2197-00 dated May 5, 1988, between Itel Rail Corporation, Itel Railcar Corporation and Hartford and Slocomb Railroad Company

Dear Ms. McGee:

On behalf of Itel Rail Corporation, the above instrument, in four (4) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$13 recordation fee.

Please record this Schedule No. 1 under Master Lease No. 2197-00 dated May 5, 1988, between the aforementioned parties, which is being filed simultaneously this date.

The parties to the aforementioned instrument are listed below:

Itel Rail Corporation and
Itel Railcar Corporation (Lessor)
55 Francisco Street
San Francisco, California 94133

Hartford and Slocomb Railroad Company (Lessee)
P.O. Box 2243
Dothan, Alabama 36302

This Schedule No. 1 covers ten (10) 3,000 cubic foot, 100-ton covered hoppers (LO) bearing reporting marks HS 1000-1009.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

Patricia Schumacker

Patricia Schumacker
Legal Department

PS:
Enclosures

4/22/88

SCHEDULE NO. 1 TO MASTER LEASE NO. 2197-00

1
RECORDATION NO. 5642 A
MAY 13 1988-11 15 AM
INTERSTATE COMMERCE COMMISSION

THIS SCHEDULE NO. 1 ("Schedule") to that certain Lease Agreement (the "Agreement") made as of May 5, 1988 between ITEL RAIL CORPORATION and ITEL RAILCAR CORPORATION, severally, as lessors, and HARTFORD AND SLOCOMB RAILROAD COMPANY, as lessee ("Lessee") is made this 5th day of May, 1988, between ITEL RAILCAR CORPORATION ("Lessor") and Lessee.

Lessor and Lessee agree as follows:

1. All terms defined in the Agreement shall have the meanings defined therein when used in Schedule No. 1.
2. Lessor hereby leases the following Cars to Lessee subject to the terms and conditions of the Agreement and this Schedule:

| AAR Mech. Design. | Description | Reporting Marks and Numbers | Length | Dimensions Inside Width | Height | Door Width | Number of Cars |
|-------------------------|----------------------------------------------|--------------------------------------|--------|-------------------------------|--------|---------------|----------------------|
| LO | 3,000 cubic ft 100 ton covered hoppers | HS 1000- 1009 | 36'8" | 10' | --- | --- | 10 |

3. A. The term of the Agreement with respect to each Car described in this Schedule shall commence at 12 noon on the date and at the location such Car is remarked pursuant to Subsection 3.A. ("Delivery") and shall continue as to all of the Cars described in this Schedule for thirty-six (36) months after the earlier of (i) the date on which the last Car described in this Schedule was remarked or (ii) sixty (60) days after the first Car described in this Schedule was delivered (the "Initial Term"). Upon the Delivery of the final Car, Lessee shall notify Lessor in writing of the expiration date of the Initial Term. Unless Lessee, within fifteen (15) days of the date of such notice, demonstrates to the satisfaction of Lessor that such date is incorrect, then Lessee shall be deemed to have concurred to such date.

B. If this Agreement has not been terminated early and no unremedied default has occurred and is continuing pursuant to Section 10 of the Agreement, the Agreement shall automatically be extended for two (2) consecutive periods of twelve (12) months each (each such period an "Extended Term") with respect to all of the Cars described in this Schedule provided that Lessor or Lessee may terminate this Agreement effective as of the end of the Initial Term or any Extended Term as to some or all of the Cars described in this Schedule by providing not less than thirty (30) days prior written notice to the other.
4. After each Car has been remarked, such Car shall be moved to the railroad line of the Wisconsin & Southern Railroad Company ("Assignee") pursuant

to the Assignment Agreement dated February 29, 1988 ("WSOR Assignment") between Lessee as Assignor and Assignee which is attached hereto as Exhibit A. To ensure optimal use of the Cars, Lessor agrees to assist Lessee in monitoring Car movements and, when deemed necessary by Lessee and Lessor, to assist in the issuance of movement orders with respect to such Cars to other railroad lines in accordance with the Interstate Commerce Commission ("ICC") and the Interchange Rules.

5. Lessor consents to Lessee's entering into the WSOR Assignment; provided that Lessor shall perform Lessee's duties under the WSOR Assignment, except the duties described in paragraph 6 therein, which shall be performed by Lessee and that Lessee shall, if directed by Lessor, to the extent legally permissible, assign Lessee's interest in the WSOR Assignment to any party designated by Lessor.
6. Lessor shall perform or cause to be performed and pay for all costs and expenses associated with the maintenance of the Cars described in this Schedule except as set forth in Section 5 of the Agreement. Lessee may make running repairs to those parts of the Cars specified in Exhibit B hereto. Subsection 5.A. of the Agreement shall not apply with respect to such Cars.
7. Lessor agrees to reimburse Lessee, within thirty (30) days from Lessor's receipt of the receipted copy of the paid tax bill, for all taxes actually paid in cash by the Lessee resulting from: 1) ad valorem tax assessments on the Cars; and 2) any assessment, levy or impost relating to any Car, the Agreement or the delivery of the Cars which remained unpaid as of the date of the delivery of the Cars to Lessee or which are assessed, levied or imposed during the term of the Agreement, except taxes on income imposed on Lessee, gross receipts or sales or use tax imposed on the mileage charges and car hire revenue or sale or lease of the Cars. Lessor and Lessee will comply with all state and local laws requiring filing of ad valorem returns associated with the Cars. Notwithstanding any portion of this Section, Lessor shall not be responsible for penalty or interest assessments resulting from Lessee's failure to comply with any regulation or statute of any taxing or assessing authority. Lessee shall forward to Lessor upon receipt all correspondence, notifications of proposed tax assessments and tax bills associated with any tax reimbursable to Lessor. Lessor may, in good faith and by appropriate proceedings, contest any assessment, notification of assessment or tax bill. Lessor shall assume full responsibility for all expenses, including legal fees, resulting from such contest.

8. Rent

A. Definitions

- (i) "Eligible Lines" is defined as the railroad lines owned and operated by Lessee as of the date of this Schedule. Unless otherwise agreed by Lessor and Lessee, any lines purchased by Lessee or added to the Eligible Lines during the Initial Term or any Extended Term are deemed to be the lines of another railroad company (a foreign road) for the purposes

of determining Revenues (as defined in Subsection 8.A.(ii) hereinbelow).

(ii) "Revenues" is defined as the total revenues that are earned or due for the use and handling of the Cars on all railroad lines other than the Eligible Lines, including, but not limited to, per diem and mileage, whether or not collected and received by Lessor and undiminished by any claimed abatement, reduction or offset caused by any action or failure of Lessee.

(iii) The "Base Rent" is defined as
per Car per calendar quarter. The Base Rent for any Car which is not subject to the Agreement for an entire calendar quarter shall be prorated at
per day for such Car during such calendar quarter.

B. Lessor shall receive all Revenues earned by each Car prior to and during the term of the WSOR Assignment.

C. Upon the early termination or expiration of the WSOR Assignment, Lessor shall receive all Revenues earned by the Cars while such Cars are off the Eligible Lines.

D. (i) Upon any abatement, reduction or offset as described in Subsection 8.A. (ii), Lessee shall, within ten (10) days of Lessor's request, reimburse Lessor for such amounts.

(ii) If, at any time during the Agreement, Lessee operates lines other than the Eligible Lines, then Lessee shall supply Lessor with records which distinguish the movement of each Car on the Eligible Lines from the movement of such Car on any other lines operated by Lessee.

E. The calculations required in Section 8 shall be made within five (5) months after the end of each calendar year ("Final Calculations"). Lessor shall, prior to making such calculation, retain the revenues and other payments received by it on behalf of Lessee. Further, since the parties desire to determine on a quarterly year-to-date basis the approximate amounts owed under this Section 8, Lessor shall within three (3) months after the end of each calendar quarter, calculate on a quarterly year-to-date basis the amount due both parties pursuant to this Section. Amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, provided, however, that within twenty (20) days following the Final Calculation, any amount paid to either party in excess of the amounts required shall be refunded to the appropriate party.

F. If, with respect to any calendar quarter or quarters, Revenues received by Lessor are less than the Base Rent, Lessor may, at any time, at its option and upon not less than ten (10) days' prior written notice to Lessee, terminate the Agreement as to such Cars as Lessor shall determine.

- G. If any Car has remained on Lessee's property because Lessee has not given preference to the Cars as specified in Subsection 3.B., Lessee shall be liable for and remit to Lessor an amount equal to the revenues which would have been generated if such Car had been in the physical possession and use of a railroad for the entire period during which such Car is on Lessee's property and had travelled
9. Except as expressly modified by this Schedule No. 1, all terms and provisions of the Agreement shall remain in full force and effect.
10. This Schedule No. 1 may be executed by the parties hereto in any numbers of counterparts and all said counterparts taken together shall be deemed to constitute one and the same instrument.

ITEL RAILCAR CORPORATION

HARTFORD AND SLOCOMB RAILROAD COMPANY

BY: *J. D. Hayes*

BY: *G. J. Finch III*

TITLE: *President*

TITLE: *President*

DATE: *May 5, 1988*

DATE: *4-28-88*

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 5th day of May, 1988, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Railcar Corporation, that the foregoing Schedule No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sharon L. Van Fossan
Notary Public



STATE OF Alabama)
) ss:
COUNTY OF Houston)

On this 28 day of April, 1988, before me personally appeared Le Frischer III, to me personally known, who being by me duly sworn says that such person is President of Hartford and Slocumb Railroad Company, that the foregoing Schedule No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jean Thompson
Notary Public

EXHIBIT B
Covered Hoppers

Running Repairs

Angle Cocks

Air Hose

Train Line

Operating Levers and Brackets

Sill Steps

Grab Irons

Brake Shoes

Brake Shoe Keys

Brake Connecting Pin

Brake Head Wear Plates

Air Brakes

Hand Brakes

Brake Beams

Truck Springs

Running Repairs Continued

Wheels

Yokes

Knuckles/Pins

Slack Adjuster

Couplers

Draft Gears

Coupler Carriers

Center Plates (Not Replacement)

Cotter Keys

Roller Bearing Adapters

Outlet Gate Repair
(Not Replacement)

Hatch Cover Repair
(Not Replacement)

Hartford & Slocomb

A Subsidiary of ITEL Corporation

RAILROAD COMPANY
February 29, 1988

EXHIBIT A

Wisconsin & Southern Railroad Company
c/o Mr. Robert J. Blankmeyer
Vice President - Marketing
Upper Merion & Plymouth Railroad Company
P. O. Box 404
Conshohocken, Pennsylvania 19428

Dear Mr. Blankmeyer:

Please accept this letter as the agreement ("Assignment Agreement") whereby Hartford and Slocomb Railroad Company ("Assignor") shall supply Wisconsin & Southern Railroad Company ("Assignee") with ten (10), 100-ton, 3,000 cubic feet covered hopper cars bearing the reporting marks within the series HS 1000 - 1009 (the "Cars"). Assignee shall, only upon Assignor's instructions, place said Cars into an assignment pool on Assignee's railroad lines as provided for in Car Service Rule 16 and under the provisions of Car Service Directive 435 of the Code of Car Service Rules, AAR Circular No. OT-10.

The term ("Initial Term") of this Assignment Agreement, with respect to each Car, shall commence on the date and at the location such Car is first interchanged to Assignee ("Delivery") and shall expire as to all the Cars three (3) years from the earlier of (1) the date of Delivery of the last Car or (2) thirty (30) days after the date of Delivery of the first Car. Unless terminated earlier, the Assignment Agreement shall then be extended through two (2), twelve (12) month periods, each such twelve (12) month period an "Extended Term". Either party may cancel the Assignment Agreement during any Extended Term upon not less than thirty (30) days' prior written notice to the other.

Upon the Delivery of the final Car, Assignor shall issue to Assignee a fully-executed Certificate of Delivery in the form of Exhibit A hereto that shall contain the expiration date of the Assignment Agreement as determined by Assignor. Unless, within fifteen (15) days of the date of such Certificate of Delivery, Assignee demonstrates to the satisfaction of Assignor that such expiration date is incorrect, Assignee shall be deemed to have concurred with such expiration date.

Assignee shall (i) comply with the handling carrier's obligations under AAR Interchange Rules while the Cars are in Assignee's possession, and (ii) fulfill its obligations set forth herein.

Assignee shall load the Cars prior to loading any covered hoppers of similar capacity leased by or assigned to Assignee from other parties subsequent to the date of this Assignment Agreement, purchased by Assignee subsequent to the date of this Assignment Agreement, or interchanged from other railroads; provided, however, that this shall in no event prevent or prohibit Assignee

POST OFFICE BOX 2243

DOTHAN

ALABAMA 36302

(205) 792-3895/792-3896 - 793-1398

TELEX 59-3487

from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor.

If any Car returns to Assignor's line as a result of Assignee not filing the assignment pool code properly, Assignee shall be responsible for all costs associated with returning such Car to Assignee. Assignor shall use its best efforts to prevent any Car from being interchanged onto its lines during the term of the Assignment Agreement, including advising Assignor's connecting carrier that the Cars have been placed into an assignment pool on Assignee's lines and that the connecting carrier should not return such Cars to Assignor during the term of the Assignment Agreement.

When used in this Assignment Agreement, each of the terms shall have the following definitions:

- (i) "Eligible Lines" is defined as the railroad lines owned and operated by Assignee in Wisconsin, as of the date of this Assignment Agreement. Unless otherwise agreed by Assignor and Assignee, any lines purchased by Assignee or added to the Eligible Lines during the term of the Assignment Agreement are deemed to be the lines of another railroad company (a foreign road) for the purposes of determining Revenues (as defined hereinbelow). If, at any time during the term of the Assignment Agreement, Assignee operates lines other than the Eligible Lines, then Assignee shall supply Assignor with records which distinguish the movement of each Car on the Eligible Lines from the movement of such Car on other railroad lines operated by Assignee.
- (ii) "Revenues" is defined as the total revenues earned and due for the use or handling of the Cars on all railroad lines other than the Eligible Lines, including but not limited to, per diem and mileage whether or not collected and received by Assignor and undiminished by any claimed abatement, reduction or offset caused by any action or inaction of Assignee, and excluding all freight revenues due to Assignee for products loaded in the Cars. Revenues shall be computed using the rates specified for each Car in the Hourly and Mileage Car Hire Rate Table published in the January 1988 edition of The Official Railway Equipment Register.

Assignee shall be entitled to full per diem and mileage relief for each Car while such Car is on the Eligible Lines. Assignee shall acknowledge the Cars while on its lines at a zero rate for time and mileage.

Assignor shall receive an amount equal to _____, of the Revenues earned and due from other railroad companies with respect to the Cars. If, with respect to any calendar quarter ("Quarter"), Revenues earned by the Cars in the aggregate are less than the amount of Revenues ("Base Revenues") the Cars would have earned had they been on railroad lines other than the Eligible Lines for _____ of the hours that they were subject to the Assignment Agreement during such Quarter, then Assignee shall, within thirty (30) days of receiving an invoice from Assignor for such Quarter, pay Assignor the difference between the Base Revenues and the Revenues earned for such Quarter.

Assignor shall within five (5) months after the end of each calendar quarter, calculate the amount due either party on a quarterly year-to-date basis pursuant to this Assignment Agreement. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, provided, however, that if, following the final calculation, either Assignor or Assignee determines and demonstrates to the reasonable satisfaction of the other that any calculation required herein was incorrect, then any amount paid to either party in excess of the amounts required shall be refunded to the appropriate party within thirty (30) days of receiving notice of such miscalculation. Such final calculation shall be made within five (5) months after the end of each calendar year that this Assignment Agreement is in effect.

If, with respect to any Quarter, Revenues received by Assignor for the Cars in the aggregate while they were on railroad lines other than the Eligible Lines are less than the Applicable Revenues, defined as the amount of Revenues the Cars would have earned had they been on railroad lines other than the Eligible Lines for _____ of the hours that they were subject to the Assignment Agreement during such Quarter and had each travelled _____, then Assignor shall so notify Assignee. Within ten (10) days of receipt of such notice from Assignor, Assignee shall exercise its option:

- (i) to pay Assignor the difference ("Difference") between the Applicable Revenues and the actual Revenues for such Quarter and for any subsequent Quarter for the duration of this Assignment Agreement in which such Difference occurs. Assignee shall pay Assignor such Difference not later than sixty (60) days after the Quarter in which such Difference occurs; or
- (ii) to not pay Assignor such Difference for such Quarter and any subsequent Quarter in which a Difference occurs. In such event, Assignor may terminate all or a portion of the Cars from this Assignment Agreement upon not less than thirty (30) days' written notice to Assignee at any time during the duration of this Assignment Agreement.

During the term of the Assignment Agreement, Assignor may, at its expense, replace any or all of the Cars with similar covered hoppers upon not less than ten (10) days' prior written notice to Assignee.

Provided that Assignee performs the obligations set forth herein, Assignor is responsible for normal maintenance and repair expenses. Assignee is responsible for damage to the Cars while on its lines under applicable AAR Rules and in the event that Assignee fails to note any damage to any Car, the repair of which is the responsibility under AAR Rules of any third party railroad. Assignee shall promptly notify Assignor of any damage to, defect in, need of repair to, or destruction of any Car. For any damaged Car that requires repairs other than running repairs during the Assignment Agreement, car hire (time and mileage) shall be governed by applicable Car Hire and Car Service Rules. In no event shall Assignee place any Car for repair at a private contract repair facility or by a private contractor on the property of

Assignee, unless Assignor's approval has been secured earlier and such repair is being performed at the direction and control of Assignor.

Upon termination or expiration of this Assignment Agreement, Assignee shall ensure that the Cars are in the same or as good condition, order and repair as when delivered to Assignee, normal wear and tear excepted; remove the Cars from the provisions of Car Service Rule 16 and Car Service Directive 435, and deliver the Cars to a point on the Eligible Lines to be mutually agreed on by Assignee and Assignor. At Assignor's option and Assignor's expense, Assignee shall remark the Cars to bear new reporting marks to be provided by Assignor and use its best efforts to provide final outbound loads for each Car.

Assignee's rights shall be subject and subordinate to the rights of Assignor and to the rights of any lessor, any owner or secured party under any financing agreement with respect to the Cars. Accordingly, following notice to Assignee from any such lessor, secured party or owner that an event of default has occurred at any time (including at a time prior to the effective date of this Assignment Agreement), and is continuing under such financing agreement, such party may require either or both that rentals and other sums due hereunder shall be paid directly to such party, and that the Cars immediately be returned to such party.

Please indicate your concurrence to the above terms and conditions by signing both (2) enclosed originals and returning one to me.

Sincerely,

C. F. Fischer III
President

Concurrence By:

WISCONSIN & SOUTHERN
RAILROAD COMPANY

by: Earl C. Drems
Title: President
Date: Mar. 15, 1988

EXHIBIT A

Certificate of Delivery

Assignment Agreement dated February 9, 1988

**HS Reporting
Marks and Numbers**

**Date Interchanged
to WSOR**

HS 1000
HS 1001
HS 1002
HS 1003
HS 1004
HS 1005
HS 1006
HS 1007
HS 1008
HS 1009

The Initial Term of the Assignment Agreement dated February 9, 1988 between Hartford and Slocomb Railroad Company and Wisconsin & Southern Railroad Company shall expire on _____, 1991.

HARTFORD AND SLOCOMB RAILROAD COMPANY

By: _____

Title: _____

Date: _____